



October 26, 1999

Ms. Denise Nance Pierce
Bickerstaff, Heath, Smiley, Pollan, Kever & McDaniel, L.L.P.
1700 Frost Bank Plaza
516 Congress Avenue
Austin, Texas 78701-2443

OR99-3027

Dear Ms. Pierce:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 128369.

The Austin Independent School District (the "district"), which you represent, received a request for seventeen categories of information related to a police officer formerly employed by the district. You claim that a portion of the requested information is excepted from disclosure under sections 552.101, 552.102, 552.108, and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.117 of the Government Code requires you to withhold information pertaining to a peace officer if the information relates to the home address, home telephone number, social security number, or reveals whether the peace officer has family members. We find that the information highlighted by you under exhibits 2 and 3, the information identifying the parents of the officer on the birth certificate in exhibit 3, as well as the addresses in exhibits 4 and 5, must be withheld under section 552.117.

We do not believe that the Declaration of Domestic Partnership document in exhibit 4 and the Decrees in exhibit 5, are information involving "family members" as contemplated by section 552.117. We note that in section 71.003 of the Family Code, "family"

Includes individuals related by consanguinity or affinity, as determined under
Sections 573.022 and 573.024, Government Code, individuals who are

former spouses of each other, individuals who are the biological parents of the same child, without regard to marriage, and a foster child and foster parent, without regard to whether those individuals reside together.

Government Code section 573.022 provides,

(a) Two individuals are related to each other by consanguinity if:

(1) one is a descendant of the other; or

(2) they share a common ancestor.

(b) An adopted child is considered to be a child of the adoptive parent for this purpose.

In pertinent part section 573.024 of the Government Code provides,

(a) Two individuals are related to each other by affinity if:

(1) they are married to each other; or

(2) the spouse of one of the individuals is related by consanguinity to the other individual.

The subject relationship is not included in the statutory definition of "family." We conclude that information that reveals this relationship is not excepted from public disclosure by section 552.117 of the Government Code.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Law enforcement records pertaining to juvenile criminal conduct occurring before January 1, 1996 are made confidential by the former section 51.14(d) of the Family Code, which was continued in effect for that purpose. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2591 (Vernon).

We find that the submitted information must be withheld under section 552.101 of the Government Code in conjunction with former section 51.14(d) of the Family Code as follows: the documents identified as "McCallum High School Investigation" and "McKie Cove Investigation" in their entirety; that portion of the document identified as "Reagan High Investigation," excluding the materials identified as "Internal Affairs Investigation/ Sgt. Robert Hall, dated 10/24/98"; the information identifying juvenile offenders in the

documents identified as "Internal Affairs Investigation/Sgt. Robert Hall, dated 10/24/98; the materials identified as "Administrative Building Investigation," excluding the materials identified as "IA investigation Sgt. Hall" dated 9/22/95; the information identifying juvenile offenders in the documents identified "IA investigation Sgt. Hall" dated 9/22/95; the information identifying juvenile offenders in the "Voluntary Statement" of exhibit 8; the contact history in exhibit 9, in its entirety. We have marked the subject information to indicated that must be withheld under section 552.101 in conjunction with section 51.14(d) of the Family Code

The employment eligibility verification form, form I-9 is governed by title 8, section 1324a of the United States Code, which provides that the form "may not be used for purposes other than for enforcement of this chapter" and for enforcement of other federal statutes governing crime and criminal investigations. 8 U.S.C. § 1324a(b)(5); *see* 8 C.F.R. § 274a.2(b)(4). Release of this document under chapter 552 of the Government Code would be "for purposes other than for enforcement" of the referenced federal statutes. Accordingly, we conclude that the I-9 form in exhibit 2 may only be released in compliance with applicable federal statutes and regulations governing the employment eligibility system.

The submitted documents also include information excepted under section 552.130 of the Government Code. This section governs the release and use of information obtained from motor vehicle records, and provides in relevant part as follows:

(a) Information is excepted from [required public disclosure] if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

You must withhold driver's license numbers, VIN numbers, and the license plate numbers pursuant to section 552.130. The submitted information includes copies of Texas driver's licenses, which must be withheld in their entirety.

You also seek to withhold information under Government Code section 552.102(b). This section excepts certain transcript information maintained in the personnel file of a "professional public school employee." We are not of the opinion that police officers fall in the class of employees contemplated by this statute. Consequently, the subject information may not be withheld under section 552.102(b) of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Jay Burns", with a stylized flourish at the end.

Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/nc

Ref: ID# 128369

Encl. Submitted documents

cc: Mr. George L. Griffith
120 East Abram Street
Arlington, Texas 76010
(w/o enclosures)